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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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IN THE MATTER OF COMPETITION IN THE ) DOCKET NO. RE-000000C-94-0165  
 PROVISION OF ELECTRIC SERVICES )  
 THROUGHOUT THE STATE OF ARIZONA )

On January 6<sup>th</sup> 1999 the Arizona Corporation Commission issued a procedural order requesting all parties to the above docket and pursuant to Decision No. 61311 fill comments no later than 4:00 PM on January 20, 1999 on the following questions:

- A) What issues still need to be resolved in the electric industry restructuring;
- B) The order in which the issues should be resolved;
- C) The method (such as informal discussions by parties/hearings/combinations/etc.) and the timing to resolve the issues identified; and,
- D) Any agreements/disagreements/clarifications to the January 4, 1999 joint proposal of RUCO and the Attorney General.

The following are the comments of the Arizona Consumers Council concerning these issues. Further the Arizona Consumers Council is a not-for-profit voluntary, state wide consumer organization representing its members and residential, small business, rural and other vulnerable consumers in the state of Arizona. Members of the Council have been involved in proceedings before the Commission since the inception of discussions concerning restructuring in the electric industry. We have attended and participated in almost all of the meetings, hearings, discussions, etc. since the Commission proposed the initial Retail Electric Competition Rules. The Council stands ready to work with the Commission Staff and all interested parties to bring this long and arduous process to a successful conclusion so that all parties and individuals can reap the benefit of true competition in this area. We desire there be multiple parties selling competitive energy to knowledgeable and informed residential as well as business consumers.

**A. What issues still need to be resolved in the electric industry restructuring?**

The large remaining issues are:

1. What constitutes stranded costs, if any,
2. How to reimburse electric utilities for their stranded costs.

Utilities should be permitted to collect only those costs that would be truly stranded in a competitive market. Those costs must be fully justified through an independent analysis. If divestiture is to be the primary method of determining the value of assets and the amount to be recovered, then the Commission should not deviate unless it can be shown that another methodology will bring competition sooner, will save consumers money and serve residential and other small consumers better.

The unbundling of rates as required under the Rules should be set to:

- a) encourage competition and,
- b) to protect residential, small business, rural and other vulnerable consumers.

Sellers should not be permitted to sell energy below market to obtain market share and/or achieve dominance and the ability to set rates.

Competition must be maintained to benefit all consumers. In particular the Commission must work to insure that residential and other relatively small purchasers of electricity are able to realize benefits and savings. Unless entities are willing to sell to smaller purchasers, competition is a sham. So far it appears that entities seeking to sell energy in Arizona are opting to serve customers other than residential and small consumers. If restructuring is to succeed, all residential, small business, rural and other vulnerable consumers must be able to truly participate and realize savings.

Education issues have not been adequately addressed either in the working groups, hearings or by the Commission or Staff. This component must be addressed in detail and implemented prior to the onset of competition. It must become an integral part of the restructuring processes. Without a fully developed, implemented and ongoing educational process, most consumers will not be able to make informed choices concerning the products and services that may be offered. They will not be able to evaluate the choices and choose the products or services that best fit their needs.

#### **B. The order in which the issues should be resolved.**

A hierarchy of values in restructuring of the electric utility industry does little to solve the problems. Of course, without resolving the stranded cost issues we cannot go forward at all. If there is a probability of solving this issue through a settlement approach involving all parties, perhaps it should be taken up last to give parties the time needed to make settlement a reality. Perhaps dealing with the least controversial issues first would seem a prudent method of proceeding.

**C. The method (such as informal discussion by parties/hearing/combinations/etc.) and timing to resolve the issues identified.**

We have all spent an inordinate amount of time in meetings, discussions, workshops, working groups etc. In the final analysis only those meetings where the issues were not controversial, where the parties able to come to closure and there was some contentiousness in these working groups. Others can only be resolved when the Commission is involved. Unless required by statute, I do not believe that formal hearings may be the best way to solve the issues. They become overly complex and unwieldy. We need to come up with a procedure in which issues can be debated and where consensus and closure can occur. The procedure must involve all parties who wish to contribute and participate. Adequate notice and time for review of the issues must be provided. Then the Commission can come up with final orders.

**D) Any agreement/disagreements/clarifications to the January 4, 1999 joint proposal of RUCO and the Attorney General.**

The proposal by RUCO and the Attorney General seems doable. However, that is only if all issues can be solved by the dates stated. It appears that number 2 on interim unbundled tariffs may be moving too quickly. Number 3 on identification of remaining issues is behind the schedule of this procedural order as the date for comments is not due until January 20, 1999. Additionally, can we realistically consolidate both unbundled tariffs and stranded costs? Without a settlement agreement, we prefer evidentiary hearings on these issues and they should be split.

**Number 7. Settlement**

If there is going to be an attempt at a settlement of the issues, **all parties and stakeholders** must have equal access and participation at the table. The discussion and recommendations must be open and above board and the process must be open and acceptable to differing views. Notice of all meetings must be given to all parties with adequate time to make arrangements to participate and adequate time to make written comments when appropriate. The Arizona Consumers Council would appreciate being informed of settlement and other electric restructuring meetings.

The Commission and Staff must exercise diligence in notifying all parties to all proceedings in enough time so that those who wish can in fact participate.

DATED this \_\_\_\_\_ day of January, 1999

\_\_\_\_\_  
Albert Sterman  
ARIZON CONSUMERS COUNCIL

Copies of the forgoing mailed/delivered  
this \_\_\_\_\_ day of January, 1999 to:

Original and ten copies to:  
DOCKET CONTROL  
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All Parties of the Record for Docket No. RE-00000C-94-0165